

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	
)	
)	

NOTICE OF PROPOSED RULE MAKING AND ORDER

I. Application Process
A. Eligible Services

1. Efficiency and Fairness of Process- (No Change to Current Process)

Technology keeps changing at such a rapid pace that the SLD would expend too many valuable resources attempting to keep the Eligible Services List current, **they need to focus their efforts on reviewing and approving applications in a more timely manner.** Stay focused on these core business processes until you get them right.

Computerized List (Disagree)

On the surface, the concept of a “computerized list” as part of the 471 Application looks like a good thing. However, I feel it will add nothing and make the already time consuming application process more cumbersome. Interpretation of Eligible Services is not a simple process. In reality, you typically have many different eligible an ineligible products or services in a single contract. Additionally, many eligible items may be conditional. What do you propose? A pull down list with a series of questions tied to the specific choice to determine eligibility? And an additional set of questions to ensure that ineligible services are not claimed. Get real, you are wasting your time and to really do it right, you would be biting off more than you can chew and lengthening the application process. The narratives in the existing 471 Application Block 5 Item 21 Attachments are the best way to communicate what is in a funding request Additionally, a pull down list will not “further prevent fraud”, if an entity is going to lie on paper, it is going to lie online.

2. Reconsideration of Eligible Products and Services

Wide Area Networks: Fourth Order on Reconsideration (Do Not Change)

This order was an accurate interpretation of the law, and besides, it really does not make good financial sense for a school district to make a long-term investment of enormous funds in rapidly changing technology as a Wide Area Network. It is more appropriate for a Telecommunications provider to do the build out and assume the risk and challenges of updating the infrastructure. If school districts get into the business of owning Wide Area Networks, they will either be stuck with their decision for many years and will fall significantly behind in the future or will be regularly requesting additional funds for **new** Wide Area Networks.

Tennessee Order / Brooklyn Order: (Rescind)

Even though Memphis City Schools is in the State of Tennessee and a recipient of services resulting from the Tennessee Order, we strongly disagree with allowing capitalization of Wide Area Network in any category of E-Rate funding. See above.

Wireless Services: (Expand Eligibility)

The concept of limiting wireless services to “educational purposes” discriminates against this technology and should be eliminated. Additionally, voicemail can play such a significant role in communicating with parents and constituents that it should be eligible.

- B. Discounts for Internet Access When Bundled with Content (Do Not Change)**
The proposal to permit applicants to receive full discounts on Internet access packages that include content, even if that content is also available separately, if that package provides the most cost effective Internet access is not in the best interest of the program. It legalizes creative pricing strategies; don't fall into their trap. Do not change your rules.
- C. Review of Requests Including Eligible and Non-Eligible Services (Do Not Change)**
This rule is clear and reasonable leave it alone.
- D. Compliance with the Americans with Disabilities Act (Do Not Change)**
Don't let the E-Rate program become the enforcer of all laws; there are processes already in place to enforce this act. Do not add this requirement; stay focused on your core responsibilities.

II. Post Commitment Program Administration

- A. Choice of Payment Method: *(Agree with Caveat)***
We wholeheartedly support the proposed rule changes specifying that **all** providers must offer applicants the option of either making upfront payments and being reimbursed via the BEAR process or paying only the non-discounted portion upfront, as well as requiring service providers to remit BEAR payments to the applicants within twenty days of having received them or face penalties. The BEAR process is an extreme burden on schools financially and administratively. **However, the SLD must tend to their core businesses of reviewing and approving applications in a timely fashion and awarding commitments before the funding year commences. While I understand the recent change in only allowing one method of discount payment for the year simplifies the program administration, it voids the intent of this rule change unless you can complete commitments before the funding year or allow a change in discount method for those commitment letters that are late.**
- B. Equipment Transferability: *(Disagree)***
The proposed rule changes essentially propose to 1) Limit transfers for three years from the date of delivery and installation of equipment for internal connections and ten years in the case of cabling. 2) Deny internal connection discounts to any entity that has already received discounts on internal connections within a specified period of years regardless of the intended use of the new internal connection.
3) Require recipients to make significant use of the discounted equipment before seeking to receive new discounted equipment; 4) Require that applicants use discounted internal connections be used at the location and for the specified use for a certain period of time.
- On the surface they seem reasonable since you imply that some districts are taking advantage of the program to purchase equipment for eligible schools and move them out to ineligible sites. **While I agree that practice must not be allowed, your solution is flawed or deliberately misleading. It is an attempt to remove funding from poorer schools and circumvent the Rules of Priority.**
- C. Use of Excess Services in Rural Areas: *(Disagree Rescind State of Alaska Waiver)***
This waiver allowing excess services to be used for non-educational is opening up Pandora's box rescind it.

III. Appeals

- A. Appeals Procedure: *(Agree)***
Increasing the time limit for filing an appeal to 60 days makes sense, particularly since many denials involve complex decisions.
- B. Funding of Successful Appeals:**
We support reserving a sufficient amount of funds to handle valid appeals and fund them to the

appropriate level. We do not support tapping as yet released funds from future years to help support the budgetary needs of the appeal process.

IV. Enforcement Tools

A. Independent Audit: (*Disagree*)

We do not support this recommended change of authorizing the Administrator to require independent audits of recipients and service providers at the expense of those entities where there is reason to believe that problems exist. The additional burden on both the service provider and on the applicant is unnecessary and financially burdensome. Small school districts and small service provider vendors do not have the financial resources to pay for audits when it is not clear what the guidelines are that cause an audit or the time period in which they will be conducted. Audits are typically conducted on large clients, large funding requests, complex implementations. This is true whether 'there is a reason to believe that problems exist' or not. This rule change would in effect cause service providers to increase their price to applicants and thus to the SLD to cover additional charges likely to be born as a result of an audit and with no way to predict the ultimate cost of such an audit.

B. Prohibition on Participation: (*Agree*)

We support this suggested rule change. Service providers and/or applicants know the rules and if they continue to willfully and repeatedly violate the rules or fail to comply, there should be a penalty of some type. We suggest no participation for a one-year period. Future violations after the one-year wait should be dealt with more harshly.

V. Unused Funds

A. Reduction of Unused Funds: (*Suggestion*)

One way of reducing some unused funds is to allow districts that anticipate migrating services to a different vendor, to link a funding request to both vendors. For example: we planned on moving from our existing voice vendor to a voice over ATM provided by a second telecommunications provider over an infrastructure that was being deployed. Since we could not guarantee accurately where we would be in the conversion project or if other factors would block implementation, the safe way was to claim both services, the old vendor for \$4million and the new vendor for \$2.1 million for a total of \$6.1 million. In reality, the most we would probably spend is approximately \$4 million. That would have been our total request if we were allowed to link the two vendors. That would have released \$2.1 million for other applicants.

B. Treatment of Unused Funds: (*Rollover to Next Year*)

Based on the funding request in year 4, the need is still tremendous. And, after all, the FCC stated in Report and Order, CC Docket No.96-45, Released: May 8, 1997 (FCC 97-157), at Para. 425, "In addition, any funds that are not disbursed in a given year shall be carried forward and may be disbursed in subsequent years without regard to the cap." By the FCC's own admission, this has not been done. We recommend rollover of unused funds from the given funding year, and previous funding years, go immediately into the total funding pot for the next funding year. This is the only way to quickly address the obvious need of the schools and maintain some constant level of funding predictability for future applicants to plan on.

Thanks for the opportunity to express my comments.

Sincerely

William C. Hazelton
E-Rate Coordinator
Memphis City Schools

Memphis, Tennessee